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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/822,240	04/09/2004	Noel C. Cobb	0075-1	1744

25901 7590 01/14/2008  
ERNEST D. BUFF  
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BEDMINSTER, NJ 07921

EXAMINER
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PRONE, JASON D

ART UNIT	PAPER NUMBER
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3724

MAIL DATE	DELIVERY MODE
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01/14/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/822,240

Applicant(s)

COBB ET AL.

Examiner

Jason Prone

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2,4,5,7 and 10-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2, 4, 5, 7, and 10-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Double Patenting*

1. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

2. Claims 2, 4, 5, 7, and 10-12 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 2, 4, 5, 7, and 10-12 of copending Application No. 11/352,728. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2, 4, 5, 7, and 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tebo (6,848,185) in view of Anderson (4,109,380) further in view of Burchell (6,321,455). In regards to claim 2, Tebo discloses the invention including a reversible, detachable blade having a flat surface that defines a two-dimensional plane

and having a plurality of sharp edges and two anchoring holes (56 in Fig. 2), a handle for supporting the blade (12), a first member and a second member (Fig. 2), a channel means disposed within the handle for containing and supporting the blade (Fig. 2), a locating means disposed within the channel for capturing the blade (20), a cavity for holding extra knife blades (15).

In regards to claim 7, Tebo discloses the locating means is attached to the second member (20).

However, with regards to claims 1, 2, 4, 5, 10, and 11, Tebo fails to disclose the first and second members are substantially V-shaped and together create a substantially V-shaped handle, one leg of the V is a gripping portion and the other leg is a blade supporting portion, the gripping portion is angulated away from the blade, a clamping means for clamping the first and second members and supporting the blade, the angulation ranges from about 135 to about 150 degrees, the clamping means comprises at least one bolt, the bolt is threaded through the first member, and the bolt is slidably fitted to the first member.

Anderson teaches that it is old and well known in the art of utility blades to incorporate first and second members are substantially V-shaped and together create a substantially V-shaped handle (900 and 901), one leg of the V is a gripping portion (side opposite 908) and the other leg is a blade supporting portion (908), the gripping portion is angulated with away from the blade (Fig. 9), a clamping means for clamping the first and second members and supporting the blade (902), the angulation ranges from about 135 to about 150 degrees (Fig. 9), the clamping means comprises at least one bolt

(902), the bolt is threaded through the first member (902), and the bolt is slidably fit to the first member (902). Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided Tebo with the handle, as taught by Anderson because all claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective function and the combination would have yielded predictable results.

Anderson teaches that V-shaped handles come in many variations. However, with regards to claim 2, Tebo in view of Anderson fail to disclose the gripping portion is angulated out of the two-dimensional plane.

Burchell teaches it is old and well known in the art of V-shaped knives to incorporate a gripping portion that angulated out of the two-dimensional plan (Fig. 2). Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided Tebo in view of Anderson with the handle, as taught by Burchell because all claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective function and the combination would have yielded predictable results.

### ***Response to Arguments***

5. Applicant's arguments with respect to claims 2, 4, 5, 7, and 10-12 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Prone whose telephone number is (571) 272-4513. The examiner can normally be reached on 8:00-5:30, Mon - (every other) Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer D. Ashley can be reached on (571) 272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

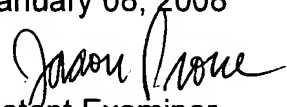
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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January 08, 2008

  
Patent Examiner  
Jason Prone  
Art Unit 3724  
T.C. 3700